

Executive Summary – Enforcement Matter – Case No. 46635
Don M. Tate dba Don General Services
RN102120938
Docket No. 2013-0797-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Don General Service, located on the north side of Farm-To-Market Road 2426 East,
Pineland, Sabine County

Type of Operation:

Municipal solid waste ("MSW") Type V transfer facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 27, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,237

Amount Deferred for Expedited Settlement: \$2,647

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,590

Total Due to General Revenue: \$8,000

Payment Plan: 4 payments of \$2,000 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 8, 2013

Date(s) of NOE(s): March 22, 2013

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Docket No. 2013-0797-MSW-E

Violation Information

1. Failed to ensure that the Facility sign contains specific required information listed in the approved Site Operating Plan ("SOP"). Specifically, the entrance sign at the Facility did not contain emergency contact information, language stating that all loads will be properly covered or otherwise secured, or a "No Smoking" sign. Also, the entrance sign indicated that the Facility accepts scrap tires, which are listed as prohibited waste in the Facility SOP [30 TEX. ADMIN. CODE § 330.231 and MSW Registration No. 40054, SOP § 330.231, Facility Sign, Page 11].
2. Failed to operate and accept waste within the approved Facility operating hours specified in the approved SOP. Specifically, Respondent accepted waste on Tuesdays, Thursdays and Fridays outside of the approved waste acceptance days and times specified in the SOP [30 TEX. ADMIN. CODE § 330.229(a) and MSW Registration No. 40054, SOP § 330.229, Facility Operating Hours, Page 11].
3. Failed to employ at least one licensed individual who supervises or manages the operations of the MSW Facility. Specifically, none of the employees at the Facility possessed a Class A or Class B MSW Operator License [30 TEX. ADMIN. CODE § 330.213(a)].
4. Failed to ensure that an adequate supply of water under pressure is available for firefighting purposes as specified in the approved SOP. Specifically, the artesian well with pump located at the Facility was incapable of delivering 250 gallons of water per minute [30 TEX. ADMIN. CODE § 330.221(a) and MSW Registration No. 40054, SOP § 330.221, Fire Protection, Page 9].
5. Failed to ensure that fire extinguishers are available, fully charged, and display a current inspection tag as specified in the approved SOP. Specifically, the investigator observed three discharged fire extinguishers at the gatehouse with inspection tags dated 1995. Also, waste collection vehicles were not equipped with fire extinguishers [30 TEX. ADMIN. CODE § 330.221(b) and MSW Registration No. 40054, SOP § 330.221, Fire Protection, Page 9].
6. Failed to prevent the acceptance of a prohibited waste at the Facility. Specifically, Respondent accepted industrial solid waste from a mining operation, which is not authorized [30 TEX. ADMIN. CODE § 330.203(a) and MSW Registration No. 40054, SOP § 330.203, Waste Acceptance and Analysis, Page 4].
7. Failed to establish and maintain Facility inspection and training records as specified in the approved SOP [30 TEX. ADMIN. CODE § 330.219(b)(2) and MSW Registration No. 40054, SOP § 330.219, Page 7].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. Updated the Facility entrance sign to contain the specific information listed in the approved SOP on February 21, 2013; and
- b. Recharged the fire extinguishers and displayed current inspection tags on February 22, 2013.

Technical Requirements:

Respondent shall undertake the following technical requirements:

- a. Immediately:
 - i. Cease accepting and processing prohibited industrial solid waste at the Facility until such time as authorization is obtained;
 - ii. Cease the operation and acceptance of waste outside of the days and hours authorized in the approved SOP, or obtain an approved registration modification according to the deadline specified in Ordering Provision b. indicating that new days and hours of Facility operation and waste acceptance have been established; and
 - iii. Begin maintaining all inspection and training records at the Facility as specified in the approved SOP.
- b. Within 180 days:
 - i. Ensure that at least one employed individual of the Facility has attended and successfully completed a MSW Class A or Class B Supervisor Course; and
 - ii. Ensure that a pressurized water supply capable of delivering 250 gallons per minute has been made available at the Facility or obtain an approved registration modification indicating that the Facility has an adequate water supply under pressure for firefighting purposes.
- c. Within 195 days, submit written certification demonstrating compliance with Ordering Provisions a. and b.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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Docket No. 2013-0797-MSW-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Don M. Tate, Owner, Don General Services, P.O. Box 803, Pineland, Texas 75968

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned

1-Apr-2013

PCW

19-Apr-2013

Screening

5-Apr-2013

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Don M. Tate dba Don General Services

Reg. Ent. Ref. No. RN102120938

Facility/Site Region 10-Beaumont

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 46635

Docket No. 2013-0797-MSW-E

Media Program(s) Municipal Solid Waste

Multi-Media

No. of Violations 7

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Clinton Sims

EC's Team Enforcement Team 6

Admin. Penalty \$ Limit Minimum \$0

Maximum

\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$13,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0.0%

Enhancement

Subtotals 2, 3, & 7

\$0

Notes

No adjustment for compliance history.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$374

Economic Benefit

Total EB Amounts \$553

Approx. Cost of Compliance \$7,686

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$13,126

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.8%

Adjustment

\$111

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.

Final Penalty Amount

\$13,237

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$13,237

DEFERRAL

20.0%

Reduction

Adjustment

-\$2,647

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$10,590

Screening Date 5-Apr-2013

Docket No. 2013-0797-MSW-E

PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 5-Apr-2013

Docket No. 2013-0797-MSW-E

PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.231 and Municipal Solid Waste ("MSW") Registration No. 40054, Site Operating Plan ("SOP") § 330.231 Facility Sign, Page 11

Violation Description

Failed to ensure that the Facility sign contains specific required information listed in the approved SOP. Specifically, the entrance sign at the Facility did not contain emergency contact information, language stating that all loads will be properly covered or otherwise secured, or a "No Smoking" sign. Also, the entrance sign indicated that the Facility accepts scrap tires, which are listed as prohibited waste in the Facility SOP.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

13 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$62

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent came into compliance on February 21, 2013, prior to the March 22, 2013 Notice of Enforcement ("NOE").

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$190

This violation Final Assessed Penalty (adjusted for limits) \$190

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	8-Feb-2013	21-Feb-2013	0.04	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to ensure that the Facility's signs contain all required information listed in the approved SOP. The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 5-Apr-2013

Docket No. 2013-0797-MSW-E

PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.229(a) and MSW Registration No. 40054, SOP § 330.229, Facility Operating Hours, Page 11

Violation Description

Failed to operate and accept waste within the approved Facility operating hours specified in the approved SOP. Specifically, the Respondent accepted waste on Tuesdays, Thursdays and Fridays outside of the approved waste acceptance days and times specified in the SOP.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1

56 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$756

This violation Final Assessed Penalty (adjusted for limits) \$756

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	8-Feb-2013	18-Dec-2013	0.86	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that waste is accepted only within approved Facility operating hours. The date required is the investigation date, and the final date is the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Screening Date 5-Apr-2013

Docket No. 2013-0797-MSW-E

PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 30.213(a)

Violation Description

Failed to employ at least one licensed individual who supervises or manages the operations of the MSW Facility. Specifically, none of the employees at the Facility possessed a Class A or Class B MSW Operator License.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended based on documentation of the violation during the February 8, 2013 investigation to the April 5, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$186

Violation Final Penalty Total \$7,563

This violation Final Assessed Penalty (adjusted for limits) \$7,563

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 3

Percent Interest 5.0 **Years of Depreciation** 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$111	7-Feb-2013	8-Feb-2013	0.00	\$0	\$111	\$111
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for an employee to obtain a Class A or Class B MSW Operator License. The date required is a day prior to the investigation date, and the final date is the the investigation date.

Approx. Cost of Compliance

\$111

TOTAL

\$111

Screening Date 5-Apr-2013

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PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 330.221(a) and MSW Registration No. 40054, SOP § 330.221, Fire Protection, Page 9

Violation Description

Failed to ensure that an adequate supply of water under pressure is available for firefighting purposes as specified in the approved SOP. Specifically, the artesian well with pump located at the Facility was incapable of delivering 250 gallons of water per minute.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

56 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the February 8, 2013 investigation to the April 5, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$300

Violation Final Penalty Total \$1,261

This violation Final Assessed Penalty (adjusted for limits) \$1,261

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	8-Feb-2013	18-Dec-2013	0.86	\$14	\$286	\$300
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to ensure that an adequate supply of water under pressure is available for firefighting purposes. The date required is the investigation date, and the final date is the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$300

Screening Date 5-Apr-2013

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PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 330.221(b) and MSW Registration No. 40054, SOP § 330.221, Fire Protection, Page 9

Violation Description

Failed to ensure that fire extinguishers are available, fully charged, and display a current inspection tag as specified in the approved SOP. Specifically, the investigator observed three discharged fire extinguishers at the gatehouse with inspection tags dated 1995. Also, waste collection vehicles were not equipped with fire extinguishers.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

14 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the February 8, 2013 investigation to the February 22, 2013 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$312

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on February 22, 2013, prior to the March 22, 2013 NOE.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$946

This violation Final Assessed Penalty (adjusted for limits) \$946

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment	\$500	8-Feb-2013	22-Feb-2013	0.04	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for new fire extinguishers for waste collection vehicles, recharge existing fire extinguishers and display current inspection tags. The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 5-Apr-2013

Docket No. 2013-0797-MSW-E

PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 330.203(a) and MSW Registration No. 40054, SOP § 330.203, Waste Acceptance and Analysis, Page 4

Violation Description Failed to prevent the acceptance of a prohibited waste at the Facility. Specifically, the Respondent accepted industrial solid waste from a mining operation, which is not authorized.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

56 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the February 8, 2013 investigation to the April 5, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$1,261

This violation Final Assessed Penalty (adjusted for limits) \$1,261

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	8-Feb-2013	18-Dec-2013	0.86	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to prevent the acceptance of prohibited waste at the Facility. The date required is the investigation date, and the final date is the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Screening Date 5-Apr-2013

Docket No. 2013-0797-MSW-E

PCW

Respondent Don M. Tate dba Don General Services

Policy Revision 3 (September 2011)

Case ID No. 46635

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102120938

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 330.219(b)(2) and MSW Registration No. 40054, SOP § 330.219, Page 7

Violation Description Failed to establish and maintain Facility inspection and training records as specified in the approved SOP.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

56 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$1,261

This violation Final Assessed Penalty (adjusted for limits) \$1,261

Economic Benefit Worksheet

Respondent Don M. Tate dba Don General Services

Case ID No. 46635

Reg. Ent. Reference No. RN102120938

Media Municipal Solid Waste

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	8-Feb-2013	18-Dec-2013	0.86	\$21	n/a	\$21
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain inspection and training records at the Facility. The date required is the investigation date, and the final date is the estimated compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603233883, RN102120938, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603233883, Don M. Tate

Classification: UNCLASSIFIED

Rating: -----

Regulated Entity: RN102120938, DON GENERAL SERVICES

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: NORTH SIDE of FM RD 2426 E near PINELAND, TX 75968-0006, SABINE COUNTY

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

MUNICIPAL SOLID WASTE PROCESSING REGISTRATION
40054

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
40054

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: June 06, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 23, 2008 to April 23, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Clinton Sims

Phone: (512) 239-6933

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DON M. TATE DBA DON
GENERAL SERVICES
RN102120938**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0797-MSW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Don M. Tate dba Don General Services ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a municipal solid waste ("MSW") Type V transfer facility located on the north side of Farm-To-Market Road 2426 East near Pineland, Sabine County, Texas (the "Facility").
2. The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 27, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirteen Thousand Two Hundred Thirty-Seven Dollars (\$13,237) is assessed by the Commission in settlement of the violations

alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred Ninety Dollars (\$2,590) of the administrative penalty and Two Thousand Six Hundred Forty-Seven Dollars (\$2,647) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eight Thousand Dollars (\$8,000) of the administrative penalty shall be payable in four monthly payments of Two Thousand Dollars (\$2,000) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Updated the Facility entrance sign to contain the specific information listed in the approved Site Operating Plan ("SOP") on February 21, 2013; and
 - b. Recharged the fire extinguishers and displayed current inspection tags on February 22, 2013.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to ensure that the Facility sign contains specific required information listed in the approved SOP, in violation of 30 TEX. ADMIN. CODE § 330.231 and MSW Registration No. 40054, SOP § 330.231, Facility Sign, Page 11, as documented during an investigation conducted on February 8, 2013. Specifically, the entrance sign at the Facility did not contain emergency contact information, language stating that all loads will be properly covered or otherwise secured, or a "No Smoking" sign. Also, the entrance sign indicated that the Facility accepts scrap tires, which are listed as prohibited waste in the Facility SOP.
2. Failed to operate and accept waste within the approved Facility operating hours specified in the approved SOP, in violation of 30 TEX. ADMIN. CODE § 330.229(a) and MSW Registration No. 40054, SOP § 330.229, Facility Operating Hours, Page 11, as documented during an investigation conducted on February 8, 2013. Specifically, the Respondent accepted waste on Tuesdays, Thursdays and Fridays outside of the approved waste acceptance days and times specified in the SOP.
3. Failed to employ at least one licensed individual who supervises or manages the operations of the MSW Facility, in violation of 30 TEX. ADMIN. CODE § 30.213(a), as documented during an investigation conducted on February 8, 2013. Specifically, none of the employees at the Facility possessed a Class A or Class B MSW Operator License.
4. Failed to ensure that an adequate supply of water under pressure is available for firefighting purposes as specified in the approved SOP, in violation of 30 TEX. ADMIN. CODE § 330.221(a) and MSW Registration No. 40054, SOP § 330.221, Fire Protection, Page 9, as documented during an investigation conducted on February 8, 2013. Specifically, the artesian well with pump located at the Facility was incapable of delivering 250 gallons of water per minute.
5. Failed to ensure that fire extinguishers are available, fully charged, and display a current inspection tag as specified in the approved SOP, in violation of 30 TEX. ADMIN. CODE § 330.221(b) and MSW Registration No. 40054, SOP § 330.221, Fire Protection, Page 9, as documented during an investigation conducted on February 8, 2013. Specifically, the investigator observed three discharged fire extinguishers at the gatehouse with inspection tags dated 1995. Also, waste collection vehicles were not equipped with fire extinguishers.
6. Failed to prevent the acceptance of a prohibited waste at the Facility, in violation of 30 TEX. ADMIN. CODE § 330.203(a) and MSW Registration No. 40054, SOP § 330.203, Waste Acceptance and Analysis, Page 4, as documented during an investigation conducted on February 8, 2013. Specifically, the Respondent accepted industrial solid waste from a mining operation, which is not authorized.
7. Failed to establish and maintain Facility inspection and training records as specified in the approved SOP, in violation of 30 TEX. ADMIN. CODE § 330.219(b)(2) and MSW Registration No. 40054, SOP § 330.219, Page 7, as documented during an investigation conducted on February 8, 2013.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Don M. Tate dba Don General Services, Docket No. 2013-0797-PST-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease accepting and processing prohibited industrial solid waste at the Facility until such time as authorization is obtained;
 - ii. Cease the operation and acceptance of waste outside of the days and hours authorized in the approved SOP, or obtain an approved registration modification according to the deadline specified in Ordering Provision No. 2.b. indicating that new days and hours of Facility operation and waste acceptance have been established, in accordance with 30 TEX. ADMIN. CODE § 330.229(a) and MSW Registration No. 40054, SOP § 330.229; and
 - iii. Begin maintaining all inspection and training records at the Facility as specified in the approved SOP, in accordance with 30 TEX. ADMIN. CODE § 330.219(b)(2) and MSW Registration No. 40054, SOP § 330.219.
 - b. Within 180 days after the effective date of this Agreed Order:
 - i. Ensure that at least one employed individual of the Facility has attended and successfully completed a MSW Class A or Class B Supervisor Course, in accordance with 30 TEX. ADMIN. CODE § 330.213(a); and

- ii. Ensure that a pressurized water supply capable of delivering 250 gallons per minute has been made available at the Facility or obtain an approved registration modification indicating that the Facility has an adequate water supply under pressure for firefighting purposes, in accordance with 30 TEX. ADMIN. CODE § 330.221(a) and MSW Registration No. 40054, SOP § 330.221.
- c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Don M. Tate
For the Executive Director

4/2/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Don M. Tate
Signature

7-31-2013
Date

DON M TATE
Name (Printed or typed)
Authorized Representative of
Don M. Tate dba Don General Services

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.